

21 MAY 1947

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of
WITNESSES

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21 MAY 1947

I N D E X
Of
EXHIBITS

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1 Wednesday, 21 May 1947

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before with the
14 exception of: HONORABLE JUSTICE ROLING, Member from
15 the Netherlands, now sitting.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 - - -

19 (English to Japanese and Japanese
20 to English interpretation was made by the
21 Language Section, IMTFE.)
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21 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Colonel Smirnov.

4 COLONEL SMIRNOV: Your Honor, we checked the
5 question which was raised yesterday by the defense
6 concerning the scales of the map of the frontier of
7 the Mongolian Peoples' Republic in the Nomongan area
8 attached to the Molotov-TOGO Agreement, exhibit 767.
9 We established, as you truly stated yesterday, that to
10 the agreement there was attached a map with the scale
11 of one to two hundred thousand. When a copy to be
12 submitted to the Tribunal was made from this map, the
13 scale was reduced to one to one million.

14 MR. FURNESS: If the Court please, I believe
15 that we should have testimony on that rather than
16 merely statement by the prosecutor.

17 THE PRESIDENT: It is an obvious deduction
18 from the exhibit, itself. But if it is sufficiently
19 serious enough for you, Major Furness, we will make
20 it the subject of evidence.

21 MR. FURNESS: It is, your Honor. We intend to
22 attack the validity of that map; and I further point
23 out that the map which is attached to the original
24 exhibit is in color and is not a photostatic copy of
25 anything.

1 COLONEL SMIRNOV: Secondly, your Honor, the
2 map submitted by me yesterday was taken from exhibit
3 767 and is appendix to this exhibit among other matters,
4 exhibit 766. This map wasn't used by the Soviet
5 prosecution in their phase, and I don't know, there-
6 fore, whether the copies of this map were served upon the
7 defense. However, if the defense desires so, the
8 copies of the map will be processed and served upon
9 them in the shortest possible time.
10

11 May I ask several questions of the witness,
12 your Honor?

13 THE PRESIDENT: You may.

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HASHIMOTO

CROSS

1 G U N H A S H I M O T O, recalled as a witness
2 on behalf of the defense, having previously
3 been sworn, resumed the stand and testified
4 as follows:

5 CROSS-EXAMINATION (Continued)

6 BY COLONEL SMIRNOV:

7 Q On page 12 of your affidavit, No. 974, you
8 give a quotation, taking it into inverted commas, the
9 quotation from the so-called Basic Principles of the
10 Settlement of the Nomongan Incident of May 31. All
11 this is quoted by you from memory?

12 A The gist was written by me from memory, but
13 the original existed at that time. But it was not
14 in existence at the time the affidavit was prepared,
15 and I have heard that this document burned with others
16 at the time of termination of the war.

17 Q I ask you to answer to this question yes or
18 no to save the time. Have you inserted this quotation
19 in your affidavit from memory?

20 A Yes.

21 Q In your affidavit 1478, you give two quota-
22 tions, taking it into inverted commas, from the order
23 of the Imperial Headquarters of August 30, 1939, and
24 from other order of September 3, 1939. Did you give
25 both these quotations also from memory?

HASHIMOTO

CROSS

1 A Yes.

2 Q Are you absolutely sure of your memory
3 after eight years have passed?

4 A Yes, I have every confidence in my memory.

5 Q Having such sharp memory, can't you tell me
6 whether the following statement was contained in the
7 general principles:

8 "...in order to accomplish this purpose, we
9 can invade the Soviet territory for a short time or
10 entice Soviet soldiers into the Manchurian territory
11 and let them stay there. In this case we must take all
12 possible measures to leave no bodies of our killed and
13 wounded on Soviet territory and on the other hand try
14 every means to seize bodies of their killed or cap-
15 tured prisoners of war."

16 A I do not think that such a statement was
17 included.

18 Q What air force units participated in the
19 Khalhin-Gol area fighting from the Japanese side?

20 I ask you what air force units participated
21 from the Japanese side in fighting in the Nomongan area?

22 A It consisted of fighter units, bomber units,
23 and reconnaissance units.

24 Q Wasn't it a Second Air Force group?

25 A It was the Second Air Corps. But it wasn't

1 called an army corps.

2 Q That is correct. How many planes did it have?

3 A I do not recall the exact figure. I do not
4 positively recall the figure.

5 Q Was it not 450 planes?

6 A I think that is a little bit too much.

7 Q Can't you tell the approximate number?

8 A In my recollection, approximately one to two
9 hundred.

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CROSS

1 Q What is your estimation of the Japanese losses
2 in the period from May up to September?

3 THE RUSSIAN MONITOR: In the Nomongan area.

4 A At that time I knew, but I do not have any
5 recollection of the figure at the present time.

6 Q At any rate the 23d Division was almost
7 completely annihilated, wasn't it so?

8 A From that it might possibly be estimated at
9 around 10,000, but I cannot state the figures with
10 any confidence at the present time.

11 Q Was the fate of the 7th Division the same?

12 A I think the losses of the 7th Division were
13 smaller than the losses of the 23d Division.

14 Q Did the command of the Kwantung Army plan to
15 transfer another three divisions to the area of
16 fighting by the end of August?

17 A Yes.

18 Q Will it be correct to say that the Commander
19 of the Kwantung Army, General UEDA, was relieved of
20 his post in connection with the Nomongan area incident?

21 A Yes.

22 Q In your affidavit you state that as the result
23 of the events of the Nomongan area General UEDA was in
24 awkward position: Can't you explain? What do you mean
25 by this "awkward position"?

HASHIMOTO

CROSS

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19 of the Kwantung Army, General UEDA, was relieved of
20 his post in connection with the Nomongan area incident?

21 A Yes.

22 Q In your affidavit you state that as the result
23 of the events of the Nomongan area General UEDA was in
24 awkward position: Can't you explain? What do you mean
25 by this "awkward position"?

1 A I don't think it could be said that it was
2 unfavorable. I mean to say that his position became
3 difficult. I stated that his position became difficult
4 because a stop order came from the Imperial General
5 Headquarters after preparations had been made to send
6 three divisions into the fighting in order to take
7 an offensive.

8 COLONEL SMIRNOV: That is all, your Honor. I
9 have no questions.

10 MR. FURNESS: If your Honor please, before
11 redirect examination starts we would like to have
12 marked for identification the paper from which the
13 prosecutor read yesterday, and the paper from which
14 he read today.

15 COLONEL SMIRNOV: Your Honor, I will gladly
16 comply with the wish of the defense counsel. I have
17 a copy of this statement made by Tass in the newspaper
18 Izvestia, which is certified by the signature of the
19 chief of the record office of the U.S.S.R., Professor
20 Maksakov, and which bears the seal upon it. Besides,
21 I have the English translation of the same.

22 CLERK OF THE COURT: The document, being a
23 statement by Tass, will be given exhibit No. 2623 for
24 identification only.
25

(Whereupon, the document above

HASHIMOTO

1 referred to, was marked prosecution exhibit
2 No. 2623 for identification.)

3 MR. FURNESS: I understand that the document
4 from which the Soviet prosecutor read this morning
5 was from exhibit 766.

6 COLONEL SMIRNOV: Your Honor, may I tender
7 the document, which is the statement by Tass, in
8 evidence?

9 MR. FURNESS: If your Honor please, we object
10 to the admission of this document on the ground that
11 it has not been identified by the witness on the
12 stand.

13 THE PRESIDENT: Objection upheld.

14 MR. FURNESS: If your Honor please, two counsel
15 wish to conduct redirect examination. First is Mr. BANNO
16 who is counsel for the defendant ITAGAKI, and who had
17 charge of obtaining this affidavit. The second is
18 Mr. Blakeney who is counsel for the defendant TOGO
19 who signed the TOGO-Molotov agreement which has been
20 testified about by this witness.

21 It is quite obvious that this witness has
22 testified as to three subdivisions in this case: First,
23 the China phase, second, the Changku Feng Incident,
24 and third, the Nomonhan Incident.

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HASHIMOTO

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22 testified as to three subdivisions in this case: First,
23 the China phase, second, the Changku Feng Incident,
24 and third, the Nomonhan Incident.

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1 of the proof in connection with the Nomenhan Incident,
2 as well as being counsel for the defendant TOGO.

3 THE PRESIDENT: Major Furness, you must conduct
4 the general redirect examination. What we will do de-
5 pends upon the result of that. That is the meaning of
6 Rule 5, as I understand it. If you have nothing to
7 say in redirect, well, then we will have to consider
8 this application. But it is a matter of special per-
9 mission under the rules, unless it peculiarly concerns
10 a particular accused.

11 MR. FURNESS: If your Honor please, I think
12 there is a general exception to that rule, and in
13 fact it was made partially at the request of the
14 Tribunal; that is, that American counsel should read
15 the affidavit in English so that the Court could follow
16 it more easily than having it come over the IBM.

17 THE PRESIDENT: If you were merely reading the
18 affidavit for counsel -- Mr. BANNO, is it?

19 MR. FURNESS: I remember I--

20 THE PRESIDENT: (Continuing) We might take a
21 different view. Where Japanese counsel is directly
22 examining, cannot speak English well, we do prefer
23 American counsel to read the affidavit in English. We
24 may have done this here, I don't know.
25

If I recollect rightly you called this witness,

HASHIMOTO

1 not Mr. BANNO. That may be a misapprehension on my
2 part. In fact the counsel before you introduced you,
3 Major Furness, being Mr. Cunningham I think.
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REDIRECT

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1 MR. FURNESS: I remember, if your Honor
2 please, and I think the record will bear me out that
3 a general exception was made with the commencement
4 of the China phase, before the commencement of the
5 China phase, at the suggestion of Mr. Lazarus.

6 THE PRESIDENT: However, if you say that
7 really Mr. BANNO was in charge of this witness and
8 you were merely reading the affidavit there will be
9 no question raised, Mr. Furness; no further question,
10 I mean.

11 Major Blakeney.

12 MR. BLAKENEY: I would like to ask leave
13 to reserve my cross-examination until such time as
14 we shall have been provided with copies of the map,
15 allegedly an extra exhibit, 766.

16 THE PRESIDENT: Do you mean re-examination,
17 Major Blakeney?

18 MR. BLAKENEY: Yes, sir; re-examination.
19 Yes, sir; I mean re-examination on behalf--

20 MR. FURNESS: You said "cross."

21 MR. BLAKENEY: I am sorry.

22 THE PRESIDENT: Mr. BANNO, what have you to
23 say?
24
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HASHIMOTO

REDIRECT

REDIRECT EXAMINATION

1
2 PY MR. BANNO:

3 Q Yesterday the prosecution put a question
4 like this: That in August 1939 the headquarters of
5 the 6th Army was established. With the organization
6 of this new headquarters was the troop strength in-
7 creased?

8 A Only the headquarters was established.
9 There was no change in the troop strength.

10 MR. BANNO: May the witness be shown
11 exhibit 766, the map attached to 766.

12 Q Mr. Witness, can you tell the source of
13 this map? Are there any indications on the map which
14 will indicate the source, that is to say, to the
15 effect that this map had been captured from the Soviet
16 side by the Yamagata unit and that this was a photo-
17 stat thereof?

18 A The title of this map says that this was
19 an Outer Mongolian map captured from the Soviet by the
20 Yamagata unit and from this title I can make the follow-
21 ing judgment: That this was captured by the Yamagata
22 unit in the course of the fighting, that the map had
23 been prepared, had been drawn up by the Outer Mongolian
24 side, and that following the capture of this map in
25 the course of the fighting it was utilized by the

HASHIMOTO

REDIRECT

1 Japanese and for that purpose Japanese characters
2 were written into it; that is, Japanese place names
3 were written into it.

4 Q And therefore it is clear that the border
5 line which is set forth on that map was established
6 in accordance with Soviet views?

7 THE MONITOR: No. Then can we say that the
8 frontier line drawn on that map was drawn up by the
9 Soviets?

10 A That is the way I think.

11 MR. BANNO: That is all, your Honor.

12 THE PRESIDENT: I remind you that we have
13 not been given copies of that map yet. That is
14 directed to Colonel Smirnov really.

15 MR. BANNO: I wish to state that that has
16 not been distributed to the defense counsel also.

17 THE PRESIDENT: The Judges have had to use
18 the copy filed with the Clerk of the Court, Colonel.
19 Would you undertake to give the Judges copies of the
20 map?

21 COLONEL SMIRNOV: Your Honor, we will try
22 to process this map in the shortest possible time but
23 at the present time the prosecution has only the one
24 copy of this map and this one copy was filed with the
25 Tribunal.

HASHIMOTO

1 THE PRESIDENT: The witness should answer
2 this question or you should make a contention in
3 respect of it, Colonel. Does that frontier shown on
4 exhibit 766 broadly correspond with the frontier
5 afterwards agreed upon by the Molotov-TOGO Agreement?

6 COLONEL SMIRNOV: Your Honor, in general
7 the line which is on the map and shown in exhibit
8 766 which was captured together with the Yamagata
9 detachment by the Red Army coincides with the border
10 line on the map attached to the agreement between
11 Molotov and TOGO. However, I can't be positive as
12 to certain details but, in general, these two lines
13 coincide and this may be easily established by the
14 comparison.

15 THE PRESIDENT: We want the witness' answer
16 and we want him to look at both maps, being those
17 attached to exhibits 766 and 767. The question is,
18 Witness: Does the frontier shown on those two maps
19 broadly correspond with the frontier afterwards agreed
20 upon by the Molotov-TOGO Agreement?

21 THE WITNESS: The frontier lines on these
22 two maps generally correspond with each other. One is
23 the map attached to the agreement, the Molotov-TOGO
24 Agreement; the other is the map captured by the Yamagata
25 unit from the Soviet side.

HASHIMOTO

1 THE PRESIDENT: The frontier shown on the
2 maps when captured broadly agrees with the frontier
3 agreed upon between the USSR and Japan, is that so?

4 COLONEL SMIRNOV: The only difference is
5 that we insist, your Honor, that this map as shown in
6 exhibit 766 was captured by the Soviet troops from
7 the Japanese side.

8 THE PRESIDENT: We must have the evidence
9 of the witness. We can have your contentions,
10 Colonel Smirnov, but without evidence they are worth-
11 less.

12 THE WITNESS: It is obvious from the title
13 on this map that it was a map captured by the Yamagata
14 unit from the Soviet side and was not a map drawn up
15 by the Japanese-Manchukuoan side, and the frontier
16 lines on both maps generally correspond. This front
17 line is, as I have contended yesterday, not along the
18 Halkhin River but slightly off the Halkhin River.

19 THE PRESIDENT: Major Furness.

20 MR. FURNESS: If the Court please, we ask
21 that the witness be released on the usual terms and on
22 a further special term that we be allowed to recall
23 him when we receive the map which the Soviet prosecutor
24 has said he would process and deliver to us.

25 THE PRESIDENT: A Member of the Court desires

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1 to know whether the witness can point out on the
2 map itself why he says it comes from the Russian side.

3 THE WITNESS: The only evidence which so
4 indicates is the title of the map.

5 THE PRESIDENT: What is there in the title
6 that indicates it?

7 THE WITNESS: It is my presumption that
8 the Russians had drawn up the map but it is obvious
9 from the title of the map that it was captured by the
10 Yamagata unit during the fighting and that this was a
11 map made by the Outer Mongolian side.

12 THE PRESIDENT: Is that because the title
13 on the original map is in Russian?

14 THE WITNESS: I do not say that the original
15 title was in Russian.

16 MR. FURNESS: If your Honor please, he said
17 it was captured from the Mongolian side.

18 THE PRESIDENT: Yes, we know. We are under
19 no misapprehension as to what he said.

20 Read the title.

21 THE WITNESS: An Outer Mongolian map captured
22 by the Yamagata unit in the course of the fighting.

23 MR. FURNESS: May the witness be released on
24 the terms which I suggested, your Honor?

25 THE PRESIDENT: He is released on the usual

HASHIMOTO

1 terms.

2 (Whereupon, the witness was excused.)

3 THE PRESIDENT: At this stage I desire to
4 announce that the second commission issued by the
5 Court will be taken by the Honorable Mr. Justice
6 Northcroft. The commission is to take the evidence
7 in Tokyo of KAGESA, Sadaaki. The commission states
8 the time and place for the taking of evidence but that
9 is subject to alteration by the Commissioner. The
10 order may issue immediately.

11 MR. FURNESS: If your Honor please, we have
12 a witness who was reserved from a previous phase. We
13 would like to call him to the stand now since, as we
14 know, in the past witnesses are sometimes elusive and
15 when we have them here we like to produce them. His
16 name is HATANO and he is in the witness' room at this
17 time.

18
19 THE PRESIDENT: There appears to be no
20 objection. Whose witness is he, yours or Mr. BANNO's?

21 Mr. Comyns Carr.

22 MR. COMYNS CARR: Your Honor, might I, before
23 the witness is sworn, renew the suggestion that this
24 being a witness to whom we object altogether the time
25 should be saved of his being sworn and the introductory
particulars taken.

1 THE PRESIDENT: We can, if we desire,
2 operate that section of the Charter to which I referred.

3 MR. ROBERTS: The defense submits that we
4 would like to have the affidavit in question before
5 the Court. It is a short affidavit, five pages, and
6 we consider this witness to be an expert witness on the
7 situation in China which is a matter gravely at issue
8 before this Tribunal. His main purpose is to identify
9 certain declarations which were issued against Japan
10 in China during certain years, 1932-1935, and these
11 are the documents which we intend to use for purposes
12 of the contention of the defense.
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1 THE PRESIDENT: It may save a lot of time,
2 probably would, if we do as Mr. Comyns Carr suggests,
3 give our opinion on the admissibility of this pro-
4 posed evidence after we hear argument on both sides.
5 If you do not accept our decision or, rather, if you
6 are dissatisfied, you can formally tender the evi-
7 dence later, but time will be saved. Material will
8 not be saved because you have done all the process-
9 ing you are going to do.

10 MR. ROBERTS: For the purpose of orderly
11 procedure, I suggest that the document be tendered
12 and then an objection taken.

13 MR. COMYNS CARR: Your Honor, I entirely
14 agree with that. What I seek to avoid is the time
15 in swearing the witness before the document is
16 tendered and taking his personal particulars. Of
17 course, the Tribunal must have the document before
18 it in order to judge of the objection.

19 THE PRESIDENT: In this particular case,
20 of course, we only lose time, but we are dealing
21 with others.

22 MR. COMYNS CARR: Yes. May I point out,
23 your Honor, that this would be in accordance with
24 the rule made a long time ago by the Tribunal but
25 seldom observed, that affidavits should be presented

1 to the Tribunal three days in advance in order to
2 enable the Tribunal to judge of their materiality.

3 MR. ROBERTS: I believe we could have the
4 witness sworn and have his name and could save much
5 time by proceeding in an orderly fashion.

6 THE PRESIDENT: Nothing will be saved in
7 this case, of course. Everything has been done,
8 but this discussion may have a very important bear-
9 ing on other cases.

10 I think a majority of the Court would
11 like to hear your objection.

12 MR. COMYNS CARR: Your Honor, the objection
13 to this affidavit is exactly the same as to the affi-
14 davit of the deponent OTSUKA, which was rejected by
15 the Tribunal on Monday and withdrawn for redrafting.

16 The first objection, as in that case, is
17 that the whole subject matter of the affidavit is
18 irrelevant, dealing with the history of communism
19 in China and containing, to quote from the Tri-
20 bunal's ruling at page 21081 of the record, "No
21 evidence of an actual attack on Japanese nationals
22 or property by Chinese Communists or any other
23 Chinese." The nearest it gets to anything of the
24 kind is an allegation, without documentary support,
25 that the Chinese Communist Party on various occasions

1 from the 26th of April, 1932, onwards issued declar-
2 ations of war against Japan. With regard to those,
3 I would observe, first, that the communist party was
4 not the government of China and, secondly, that the
5 dates being all after the original Manchurian Inci-
6 dent, the first of them while the incident was in
7 full progress, if there had been a declaration of
8 war by the Chinese Government, it would have been
9 justified.

10 The second objection, as in the case of
11 OTSUKA's evidence, is that the affidavit is
12 based entirely upon documents not produced or
13 accounted for in any way, including the alleged
14 declarations of war and other declarations by the
15 Chinese Communist Party, and an article by an indi-
16 vidual, named Mao Tse-Tung, in a newspaper or book.
17 The rest of it is some assertions of fact described
18 as history, ' which there is no reason to suppose
19 is within the deponent's knowledge and to which he
20 gives no source of information.

21 THE PRESIDENT: Mr. Roberts, we will hear
22 you after recess.

23 We will recess for fifteen minutes.

24 (Whereupon, at 1045, a recess was
25 taken until 1100, after which the proceed-
ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Roberts.

4 MR. ROBERTS: In order to reach a decision
5 as to whether the action taken by Japan in China
6 was in the nature of aggressive war or, as the
7 defense contends, was defensive action taken for the
8 protection of Japanese interests and nationals in
9 China, it is essential that the Tribunal have a clear
10 understanding of the conditions that actually existed
11 in China.

12 The proposed witness Kenichi, HAMANO from
13 1913 to 1932 worked as a feature newspaper writer
14 on China problems and particularly served as Peking
15 special correspondent between 1920 and 1932. From
16 1932 to 1946 he was a member of the China Affairs
17 Board in the Foreign Ministry and has written
18 approximately 20 books in exposition of the situation
19 existing in China beginning as early as 1918 and
20 extending as late as 1946.

21 His qualifications are sufficient to have
22 him considered as an expert by this Tribunal so that
23 he may relate the conditions as they actually existed
24 in China from his personal observations. He is familiar
25 with the overt acts taken by the Chinese Communist

1 Party against the interests of Japan and was personally
2 familiar with virtual declarations of war issued by
3 the Chinese Communist Party in collaboration with
4 the Comintern which will establish the fact to the
5 satisfaction of this Tribunal that the Comintern
6 controlled the Chinese Communist Party for nearly
7 20 years with the object of creating an anti-Japanese
8 united front.

9 This witness is also prepared to relate to
10 this Tribunal through his knowledge of actions taken
11 by the Chinese Communist Party that it was their
12 desire that the Government should not be permitted
13 to make a quick settlement with Japan and was interested
14 in developing each incident into a protracted war.
15 Because of his personal knowledge of the situation
16 in China for a great number of years and of the steps
17 taken to provoke Japan this witness' testimony is
18 vital and relevant and should be allowed.

19 The documents referred to in his affidavit
20 will be identified by the witness as they are matters
21 within his personal knowledge.

22 In so far as the statement of the prosecutor
23 that the affidavit is a history of communism, it can
24 be stated that the history of communism could hardly
25 be stated in a five-page affidavit. The observations

1 made by Powell and Goette concerning conditions in
2 China were accepted by the Tribunal in an effort by
3 the prosecution to show no justification for the
4 acts of Japan. This witness will give us a factual
5 account of the conditions as they existed for the
6 purpose of refuting the statements of the prosecution's
7 witnesses aforementioned.

8 As to the document referred to by Mao Tse-
9 Tung, I think that perhaps we ought to touch upon
10 it when the document is introduced.

11 As to the statement of the prosecutor that
12 these were not the acts of China, the declarations
13 that we referred to will show that they are acts of
14 an independent Chinese-Soviet Government, acting
15 in concert with the Nationalist Government.

16 MR. COMYNS CARR: Your Honor, an attempt
17 has been made to establish this deponent as an expert
18 on the strength of his experiences as a newspaper
19 correspondent and afterwards as a non-regular member
20 of various ministries. Having regard to the fact
21 that the Tribunal declined to treat Mr. Ballantine
22 as an expert, I need say no more on that point.

23 Comparing him with Mr. Powell, this witness
24 nowhere purports to relate anything that he personally
25 saw or anything which he obtained from any named source.

1 With regard to the documents, my friend
2 says the witness is going to identify them, but he
3 certainly doesn't do so in the affidavit.

4 THE PRESIDENT: By a majority the Court
5 upholds the objection and rejects the document; but
6 if the document is redrafted so as to conform to the
7 rules, it will be received so far as it is confined
8 to statements of relevant and material facts.

9 In the hope that such a document will be
10 forthcoming the witness is stood down.

11 MR. ROBERTS: I would like, first, to have
12 the witness identify certain documents which it is
13 the contention of the defense to offer as exhibits.

14 THE PRESIDENT: Tender the affidavit and
15 all documents referred to therein for identification.
16 That will meet the position.

17 MR. ROBERTS: In that case we will ask that
18 the witness be stood down until the affidavit is
19 prepared.

20 THE PRESIDENT: You will want your affidavit
21 and the other documents referred to marked for
22 identification.

23 MR. ROBERTS: The book referred to has
24 already been marked for identification.

25 THE PRESIDENT: The affidavit may be marked

1 if you so wish, seeing that we have perused it.

2 MR. ROBERTS: I think that is an excellent
3 suggestion, and I so offer it.

4 CLERK OF THE COURT: Defense document
5 1420 will receive exhibit No. 2624 for identification
6 only.

7 (Whereupon, the document above
8 referred to was marked defense exhibit
9 No. 2624 for identification.)

10 MR. ROBERTS: I also understand that the
11 book is in court, which is defense document 1308,
12 and I would like to have this marked for identification
13 at the present time.

14 CLERK OF THE COURT: Defense document 1308
15 will receive exhibit No. 2625 for identification only.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 2625 for identification.)

19 MR. FURNESS: Language Section, this is
20 a running commentary entitled "Non-Aggression Pact."

21 If the Court please, it will be my task
22 to deal with the allegations made and proof produced
23 by the prosecution that the Japanese Government refused
24 to enter into a non-aggression pact with the Union
25 of Soviet Socialist Republics and that this was

1 proof of plans for aggressive war by Japan.

2 In his opening statement, page 7236 and
3 7237 of the record, Minister Golunsky said:

4 "The Japanese Government refused to conclude
5 a non-aggression pact with the USSR on the ground
6 that disputable questions existed between the USSR
7 and Japan and the time had not yet come to conclude
8 the pact.

9 "The Japanese Government paid no attention
10 to the argumentation of the Soviet Government that
11 the conclusion of the pact would have created favor-
12 able ground for solving these disputable questions."

13 Then, on the basis that any smaller nation
14 which fails to agree with this argument of the
15 Soviet Union, plans to attack her, Minister Golunsky
16 said:

17 "Such an attitude of the Japanese Government
18 has only one meaning. The Japanese Government wanted
19 to use the threat of military attack as an argument
20 while negotiating on these disputable questions and
21 if that threat would not have been effective enough,
22 to carry out such an attack."

23 Having assumed this, it was easy to move
24 on, according to the prosecutor, to further and more
25 concrete assumptions.

1 "This refusal to sign the pact proves beyond
2 any doubt that those military preparations which were
3 started by the Japanese military authorities
4 immediately after the occupation of Manchuria did
5 not aim at defense but that the purpose of these
6 preparations was to turn Manchuria and Korea into a
7 military base for waging a war of aggression against
8 the Soviet Union."

9 In order to make this part of our presentation
10 intelligible, it will be necessary to read a few
11 sentences already read by the prosecution and in
12 other instances to summarize very briefly parts of
13 documents read by them.

14 The first of the documents tendered by the
15 prosecution was exhibit No. 744 (Prosecution document
16 No. 2369), an extract from the diary of Litvinov,
17 then Peoples Commissar for Foreign Affairs for the
18 Soviet Union, entitled "Talk with YOSHI-AWA, Japanese
19 Foreign Minister over a cup of coffee on December,
20 1931." The specific day is not specified. I will
21 read the first part of this document to show that
22 even three months after the start of the Manchurian
23 Incident, Russia did not regard it as any threat by
24 Japan and to show the tentative and informal nature
25 of the proposal that no official statement from Japan

1 was expected; only an expression of personal views.

2 "Mr. Y. thanked for the courtesy and attention
3 paid to him during travelling and for breakfast
4 arranged for him. I told him that we learnt with
5 satisfaction of his having been appointed Minister
6 for Foreign Affairs. He had signed the Peking agree-
7 ment and in such a way had personally participated
8 in laying the foundation of our present relations,
9 and, therefore, we were glad that the preservation
10 of those relations was then in his hands. The
11 preservation of peaceful and friendly relations with
12 all our neighbors including Japan is a foundation
13 of our foreign policy.

14 "Mr. Y. replied that he was proud of the
15 role he had played in establishing relations with us.

16 "After his appointment he was not in contact
17 with his Government and therefore could not speak
18 on its behalf, but he personally was in favor of
19 preserving and improving relations with us and there-
20 fore he was glad to hear from me of similar intentions
21 on our part.

22 "I concurred with YOSHISAWA, that prior to
23 the exchange of opinions with his colleagues in the
24 Government he could not make any official statements
25 on behalf of the Government, but that his personal

1 views of relations between our countries were also
2 valuable. I also concur with Y's supposition of the
3 possibility and desirability of improving these
4 relations, and think that it could be achieved by
5 some new act. We are conducting negotiations with
6 Poland, are starting negotiations with Finland,
7 Estonia, Latvia" --

8 THE PRESIDENT: Mr. Comyns Carr.

9 MR. COMYNS CARR: From this point on the
10 document has already been read except for the last
11 sentence on the page.

12 THE PRESIDENT: The last portion.

13 MR. COMYNS CARR: Yes, your Honor, I beg
14 your pardon. I thought it was all one sentence.
15 Beginning with the words "He asked whether that
16 proposal had been made by us before --" That one
17 had not been read.

18 MR. FURNESS: That is quite true, your Honor,
19 but before starting this presentation I said that in
20 order to make it intelligible I would have to either
21 reread parts of the document read by the prosecution
22 or summarize them.

23 MR. COMYNS CARR: Your Honor, that would
24 convert a running commentary into an argument, which,
25 we submit, this is not the proper time.

1 THE PRESIDENT: We might tolerate a limited
2 amount of rereading for the sake of being able to
3 follow the matter intelligently, but where do you
4 stop, that is the trouble?

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1 MR. FURNESS: I plan only four sentences, your
2 Honor.

3 "We have concluded such pacts with Germany,
4 Lithuania, Turkey, Persia and Afghanistan. The
5 pact with France has been initialled. When these
6 negotiations are completed and the pacts signed, we
7 shall be bound by the pacts of non-aggression with all
8 our neighbors with the exception of Japan.

9 "We consider that this gap should be filled,
10 otherwise there will be a queer situation that Japan
11 will be our only neighbor who has no pact of non-
12 aggression with us."

13 I will read from the last part of this docu-
14 ment in order to show that such a pact had been dis-
15 cussed before without apparently either side being
16 accused of aggression and that no official reply was
17 expected from YOSHISAWA.

18 I read the last four sentences which have
19 not been read.

20 "He"-- YOSHISAWA -- "asked whether that pro-
21 posal had been made by us before, through HIKOTA, or
22 comrade Troyanovsky. Comrade Karahan made it clear to
23 him that in Tokyo in 1928 and even in 1930 there were
24 conversations on the subject. I added that, of course,
25 we did not expect to receive an official reply from

1 YOSHISAWA, which we would be forwarded through comrade
2 Troyanovsky, or HIROTA, but I was interested to know
3 Mr. YOSHISAWA's personal opinion.

4 "Y. refrained from further talk on that sub-
5 ject and asked me whether I wanted to forward anything
6 to Tokyo."

7 The next document tendered by the prosecution
8 was accepted as evidence as exhibit No. 745 (prosecu-
9 tion document 2371, page 7719 of the record, a verbal
10 note delivered by UCHIDA, then Foreign Minister of
11 Japan, to Troyanowsky, the Soviet Ambassador in Tokyo,
12 on 13 December 1932. In the part read by the prosecu-
13 tion, it was indicated that under the basic treaty
14 between the two states, even without a non-aggression
15 pact both parties were ready to respect the sover-
16 eignty of the other and not to violate each others'
17 border, there were pending questions and while Japan
18 did not refuse to enter negotiations for a general
19 pact, it felt that formal negotiations should be
20 delayed. The reasons are stated in the last part of
21 the document not read by the prosecution which I shall
22 now read.

23 I quote from exhibit 745, the last two para-
24 graphs.

"Perhaps at present it will be preferable to

1 try and achieve the solution of various problems facing
2 both nations; as to the negotiations which were referred
3 to, it will be better to wait for a while and take
4 time until the proper conditions are created. For the
5 time being it will be of avail if both governments will
6 confer together on peaceful methods of preventing and
7 solving locally all sorts of difficulties that may acci-
8 dentally arise due to the fact that the Japanese and
9 Soviet troops are stationed so close to one another.
10 The creation of a Japano-Soviet-Manchurian committee to
11 prevent border incidents may become one of such means.

12 "The note was delivered to Troyanovsky by
13 UCHIDA December 13, 1932."

14 The next document tendered by the prosecution
15 was exhibit 746 (prosecution document 2372) page 7720
16 of the record, a note delivered by Ambassador Troyanovsky
17 to Count UCHIDA one month later on 4 January 1933.
18 Despite the fact that it was the Soviet Government
19 making a self-serving statement, the prosecution in
20 offering it said it made clear the true motives of the
21 Japanese Government in turning down the Soviet's so-
22 called proposal. I will read a part of the document
23 not read by the prosecution to show that the Soviet
24 Government recognized that under the then present con-
25 ditions controversies between neighboring states were

1 inevitable and that conclusion of a non-aggression
2 pact would not settle all such difficulties.

3 I quote the second sentence, the third para-
4 graph.

5 "The Japanese Government evidently believes
6 that the conclusion of non-aggression agreements is
7 pertinent only between two states which have no con-
8 troversies. Under the conditions of the present
9 economic and political interdependence between nations
10 such state of affairs is hardly existing, nor is it
11 possible, especially between two states which are more
12 or less close neighbors.

13 "The solution of now existing disputes does
14 not prevent from breaking out new ones in the future,
15 particularly if the policy of the state develops along
16 the line of aggression and extension of its sphere of
17 influence.

18 "It is noteworthy that the states, whether
19 close neighbors or no neighbors at all with the Union of
20 Soviet Socialist Republics, which concluded non-
21 aggression pacts with it, by no means admitted the
22 absence of any mutual claims or controversies. Par-
23 ticularly, the Union of Soviet Socialist Republics quite
24 recently gave its consent to the conclusion of a non-
25 aggression pact with a neighboring state, with which it

1 has a disputable border and to which it has well
2 grounded territorial claims."

3 Attention is called to the fact that in exhibit
4 745, the verbal note from UCHIDA to Troyanovsky, Japan
5 proposed the creation of a Japan-Soviet-Manchurian com-
6 mittee to prevent border incidents, a far more realis-
7 tic and effective approach toward the prevention of
8 aggression than the non-aggression pacts mentioned by
9 Litvinov in exhibit 745 between Soviet Russia, Poland,
10 Finland, Estonia, Latvia and Lithuania, or with Germany
11 for that matter, neighboring states with which Soviet
12 Russia had mutual claims or controversies or with
13 which it had disputable borders or well-grounded terri-
14 torial claims.

15 The last document on this subject introduced
16 into evidence by the prosecution was exhibit 747 (prose-
17 cution document 2373) page 7727 of the record, a Verbal
18 Note delivered on February 1933 by order of UCHIDA to
19 the Counsellor of the Embassy for delivery to the
20 Soviet Ambassador. Since I believe that the short
21 excerpt read by the prosecution, appearing on page 7729
22 of the record, is misleading when removed from its con-
23 text, I shall read the entire document to show that the
24 Soviet Government did not then regard Japan as an
25 aggressor and that the Japanese Government regarded the

1 note delivered to the Soviet Government, exhibit 746,
2 as a threat not conducive to good relations between the
3 two countries.

4 I read exhibit 747.
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1 "The note delivered on January 4 to the For-
2 eign minister by the Soviet ambassador in reply to the
3 verbal note of December 13 last year presented by the
4 Foreign Minister to the ambassador on the question of
5 the conclusion of a non-aggression pact between Japan
6 and the USSR, which was proposed by the Soviet
7 Government, contains an argument based on the mis-
8 interpretation of the viewpoint of the Japanese
9 Government; besides, it contains expressions hardly
10 desirable in view of the interests of the friendly
11 relations between both countries. In the course of
12 conversation between the Vice-Foreign Minister and
13 His Excellency which took place after that the former
14 brought this fact to the attention of the Ambassador
15 and recommended that the Soviet Government should pay
16 its serious attention to it.

17 "The Japanese government feels it necessary
18 to take the advantage of this new opportunity to
19 propose that the Soviet Government further deliberate
20 this problem.

21 "In the note of the Soviet government dated
22 January 4 it is stated that, "the consistent develop-
23 ment of this argument, will inevitably result in the
24 complete negation both of the idea of non-aggression
25 pacts and those contained in the Kellogg-Briand pact,"

1 and that "the Japanese Government evidently believes
2 that the conclusion of non-aggression agreements is
3 pertinent only between the two states which have no
4 controversies." To refute this idea the Japanese
5 government can only insist upon the Soviet Govern-
6 ment's thorough deliberation of the statement con-
7 tained in the verbal note of the Japanese Government
8 which reads: "To sum up, the formal beginning of the
9 negotiations between the two governments in this case
10 seems to be untimely," and "it will be preferable to
11 try and achieve the solution of various problems
12 facing both nations: as to the negotiations mentioned
13 above, it will be better to wait for a while and take
14 time until the proper conditions are created."

15 "The statement contained in the Soviet note
16 to the effect that "the Solution of now existing dis-
17 putes does not prevent from breaking out new ones in
18 the future, particularly if the policy of the state
19 develops along the line of aggression and extention
20 of its sphere of influence," attracted most serious
21 attention of the Japanese Government.
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1 "The Japanese Government accepts the expla-
2 nation of the Soviet Ambassador to the effect that
3 the phrase 'the country' did not imply Japan. Need
4 it be said that following the dictates of her constant
5 feeling of justice, Japan has no designs of armed
6 aggression. Indeed, we must say that in the above verbal
7 note the Japanese Government maintained that 'It is
8 clear both from the basic agreement between the two
9 states and from all that has taken place since the
10 conclusion of same, that Japan and the Soviet Union are
11 mutually ready to scrupulously respect the sovereign
12 rights of one another and punctually refrain from
13 any violation of each other's border.'

14 "It is necessary to add that the Soviet
15 Government published the details of the negotiation
16 prior to having received an acquiescence of the Japanese
17 Government. As a matter of principle the Japanese
18 Government had no objections to this being published
19 since the Government of the USSR would consider it
20 necessary to do so, as Vice-Foreign Minister made
21 clear to the Soviet Ambassador. But the fact is that
22 the Soviet Government unexpectedly did it though no
23 definite agreement of the opinions of both governments
24 had been effected as to the time and methods of
25 publishing.

1 "This step on the part of the Soviet Govern-
2 ment, contradictory to the international custom, took
3 the Japanese Government unawares and it must confess,
4 that it finds it difficult to understand what consi-
5 derations made the Soviet Government do so.

6 "Delivered--" I shall not read that last.

7 Mr. Blakeney will handle the proof relating
8 to the conclusion of the Neutrality Pact between Japan
9 and Soviet Russia which we contend affirmatively
10 disproves the patently untenable contention that
11 failure of a smaller state to respond to the persuasion,
12 by one means or another, of a larger state to conclude
13 a non-aggression pact proves preparation for war by
14 the smaller state against the larger. This pact was
15 terminated with what Minister Golunsky in his opening
16 statement -- page 7264 of the record -- termed "the
17 devastating blow of the Red Army against the selected
18 Japanese troops concentrated in Manchuria," a blow
19 for which, if the prosecution's position is sound,
20 the Soviet Union had made no advance preparation
21 either in operational plans or in men or in material.

22 This is marked "Introductory," language section.
23 I am not sure you have it.

24 THE INTERPRETER: Mr. Furness, the running
25 commentary was served upon us just about fifteen

1 minutes ago. We are unable to put it on simultaneously.

2 MR. FURNESS: The witness HASHIMOTO, Gun,
3 has already testified regarding the events in China
4 just before the Changku Feng Incident, the incident
5 itself and the border incident along the boundary
6 between Manchukuo and Outer Mongolia, known as both
7 the Nomonhan and Khalhin-Gol incidents.

8 THE PRESIDENT: General Vasiliev.

9 GENERAL VASILIEV: I cannot understand why
10 my colleague delivers such long speeches. It even
11 exceeds the limits of an opening statement, and I
12 believe that he should simply, now, take up the pre-
13 sentation of evidence, and that corresponds to the
14 full extent to the usual proceedings.

15 If we leave it as it is now and let the
16 defense counsel speak at this length, so the prose-
17 cution will probably be obliged to do the same and
18 then the whole trial will assume a different form.

19 MR. FURNESS: Your Honor, I plan now to go
20 into the proof of the Changku Feng Incident. This
21 is merely introductory, about seven lines more.

22 GENERAL VASILIEV: I expected to hear the
23 proofs and evidence, but I didn't hear anything
24 beyond a long speech.

25 THE PRESIDENT: I understand you are going

1 to support your statements by evidence, Major Furness?
2 In indicating what you propose to introduce and the
3 purpose of introducing it, you will, of course,
4 avoid argument as much as possible.

5 MR. FURNESS: I intend to merely indicate
6 what the document contains and what it is intended
7 to prove.

8 I shall handle the proof relating to the
9 Changku Feng or Lake Khasan incident, as it is
10 apparently known in the Soviet Union, and Mr. Blakeney
11 will present the proof relating to the Khalhin-Gol,
12 Nomonhan Incident.

13 The Indictment charges that both these inci-
14 dents were aggressive wars against the Soviet Union and
15 has charged certain of the accused with murder in con-
16 nection with them.

17 The first document that I offer in evidence
18 is defense document No. 1508, the additional Treaty
19 of Peking between China and Russia, dated November 14,
20 1860. This is the basic treaty relating to the border
21 and is introduced in order to show the vagueness of
22 the border lines.

23 I intend to read all of Article I except the
24 first paragraph.

25 THE PRESIDENT: General Vasiliev.

1 GENERAL VASILIEV: May it please the Tribunal,
2 I object to the introduction of this document on the
3 ground of its irrelevance.

4 The Tribunal have at their disposal the more
5 recent so-called Hunchun Agreement dealing with the same
6 question of the border line and the Khasan Lake area,
7 signed by Russia and China in 1886, exhibits 753 and
8 2175. The defense do not question the Hunchun Agreement,
9 which the Tribunal already have.

10 In connection with this, the introduction of
11 the earlier agreements concluded twenty-six years
12 earlier than the Hunchun Agreement of 1886, would be
13 of no assistance to the Tribunal and would only burden
14 the record.

15 THE PRESIDENT: Major Furness.

16 MR. FURNESS: If your Honor please, the
17 additional Treaty of Peking is the basic treaty. The
18 Hunchun Agreement and previous agreement are, I under-
19 stand, later protocols to that treaty. They in no
20 way invalidated this treaty or superseded it. They
21 merely were agreements on particular parts of the
22 border line and cannot be understood unless this treaty
23 is introduced.
24

25 Exhibit 753 contains merely a very short
excerpt from the Hunchun Agreement. My recollection

1 of exhibit 2175 is that the Hunchun Agreement is in
2 Russian, and that no complete copies were served in
3 English or Japanese on either defense counsel or the
4 Tribunal.

5 GENERAL VASILIEV: What has been said by my
6 colleague now, it is quite another question. All
7 that concerns the Khasan Lake is clarified in details
8 by the Hunchun Agreement of 1886.

9 The whole text of this agreement is at the
10 disposal of the Tribunal, and as far as I know, the
11 defense plans to introduce this text after the next
12 two documents, and, therefore, Mr. Furness contra-
13 dicts himself.

14 MR. FURNESS: I was merely, if your Honor
15 please, meeting the arguments made by the prosecutor.

16 I wanted to point out that it would do the
17 Tribunal, except for one member, little good to look
18 at exhibit 2175, which was introduced merely because
19 it had attached to it a map. I do want to point out
20 that the question at issue is this particular treaty
21 which we contend is a basic treaty, to which the
22 other agreements are merely protocols.

23 THE PRESIDENT: The Tribunal overrules the
24 objection and admits the document.

25 CLERK OF THE COURT: Defense document 1508

1 will receive exhibit No. 2626.

2 (Whereupon, the document above
3 referred to was marked defense exhibit
4 No. 2626 and received in evidence.)

5 THE PRESIDENT: We will adjourn until
6 half-past one.

7 (Whereupon, at 1200, a recess was
8 taken.)

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1 AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1330.

5 MARSHAL OF THE COURT: The International
6 Military Tribunal for the Far East is now resumed.

7 THE PRESIDENT: Major Furness.

8 M. R. FURNESS: I shall read all of Article 1
9 of exhibit 2626 except the first paragraph.

10 "Henceforward the eastern border between the
11 two Empires shall start from the confluence of the
12 rivers Schilka and Argun, descend the course of the
13 River Amur to the confluence of the river with the
14 River Ussuri. The territory on the northern side
15 belongs to Russia, and the whole territory on the
16 southern side as far as the estuary of the River Ussuri
17 belongs to China. Farther, from the confluence of the
18 River Ussuri to Lake Hsingkai, the border line shall
19 follow the rivers Ussuri and Son'gacha. The territory
20 on the eastern side of both rivers belongs to Russia,
21 and that on the western side to China. From the source
22 of the River Son'gacha, the border line between the
23 two Empires shall cross Lake Hsingkai, and reach
24 directly the estuary of the River Pailing; from the
25 estuary of the River Pailing, it shall run along the

1 mountains and reach the estuary of the River Huputu;
2 and farther from the estuary of the River Huputu, it
3 shall reach the estuary of the River Tumen, running
4 along the mountains situated between the River
5 Hunchun and the sea. The east of the border line all
6 belongs to Russia, and the west of it all belongs to
7 China. The point where the border line of both
8 Empires meets the River Tumen shall be no farther than
9 twenty Chinese li from its estuary.

10 "Further, in execution of Article 9 of the
11 Treaty of Tientsin, a map shall be drawn, on which a
12 red line shall demarcate the border. On that line
13 shall be inscribed Russian alphabetical letters--"
14 I shall not read the letters -- "in order to facili-
15 tate close inspection.

16 "This map shall be signed by the Plenipoten-
17 tiaries of both Empires and their seals shall be
18 affixed thereto in testimony.

19 "In case there should be tracts of land
20 colonized by Chinese subjects, of fishery and hunting
21 grounds occupied by Chinese subjects, in the waste
22 territory referred to above, Russia shall not occupy
23 them simultaneously, and shall permit the Chinese
24 subjects to engage, as in the past, in fishing and
25 hunting. After the border marks shall have been

1 mountains and reach the estuary of the River Huputu;
2 and farther from the estuary of the River Huputu, it
3 shall reach the estuary of the River Tumen, running
4 along the mountains situated between the River
5 Hunchun and the sea. The east of the border line all
6 belongs to Russia, and the west of it all belongs to
7 China. The point where the border line of both
8 Empires meets the River Tumen shall be no farther than
9 twenty Chinese li from its estuary.

10 "Further, in execution of Article 9 of the
11 Treaty of Tientsin, a map shall be drawn, on which a
12 red line shall demarcate the border. On that line
13 shall be inscribed Russian alphabetical letters--"
14 I shall not read the letters -- "in order to facili-
15 tate close inspection.

16 "This map shall be signed by the Plenipoten-
17 tiaries of both Empires and their seals shall be
18 affixed thereto in testimony.

19 "In case there should be tracts of land
20 colonized by Chinese subjects, of fishery and hunting
21 grounds occupied by Chinese subjects, in the waste
22 territory referred to above, Russia shall not occupy
23 them simultaneously, and shall permit the Chinese
24 subjects to engage, as in the past, in fishing and
25 hunting. After the border marks shall have been

1 established, they shall not be altered permanently,
2 nor shall territory in their neighborhood or in any
3 other place be occupied."

4 The next document I offer in evidence is
5 defense document No. 1509, the protocol between China
6 and Russia concerning the border east of Hunchun.
7 This is offered because it is one of the basic docu-
8 ments and because it shows the lack of monuments
9 marking the border.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Defense document 1509
12 will receive exhibit No. 2627.

13 (Whereupon, the document above
14 referred to was marked defense exhibit
15 No. 2627 and received in evidence.)

16 MR. FURNESS: I shall read the paragraph
17 with which the instrument begins, and paragraphs
18 numbered 1, 2 and 7.

19 "Whereas some of the wooden border marks
20 established in the eastern border districts of both
21 countries have been destroyed or lost, and the red
22 line on the map exchanged in 1861, corresponding to
23 the eleventh year of Hsienfeng, is very simple and
24 is much in want of details, causing thereby misunder-
25 standing one way or the other between both national,

1 officials or not, and thereby leading them gradually
2 to disputes;

3 "Have appointed as their Plenipotentiaries..."
4 I shall not read that.

5 "1. The border mark T on the bank of the River
6 Tumen has been old and rotten, and requires urgent
7 re-establishment. The monolith T shall be re-established
8 in accordance with the Protocol of Border Lines
9 stipulated in 1861, corresponding to the eleventh
10 year of Hsienfeng. The place for it to be established
11 shall be the riparian tract of land where ends the
12 foot of the mountain in that district. The said place
13 is agreed upon to find itself at a distance of fifteen
14 Russian li or thirty Chinese li from the sandbar
15 down in the River Tumen, or over thirteen and a half
16 Russian li or twenty-seven Chinese li, when measured
17 in a straight line to the sea.

18 "2. As the distance between the border marks
19 T and P is very long, it is hereby agreed that an
20 additional border mark R shall be established on the
21 border line between Mongolgorod, Russian territory,
22 and Hunchun, and an additional border mark S on the
23 line where Achini, Russian territory, borders on
24 Hunchun. Further, while upon examination of the
25 original map of 1861, the border mark I is found, it

1 is missing in the Protocol of Border Lines, it is now
2 agreed that it shall be additionally established at
3 Tashukangtzu to the southwest of the border mark R,
4 to wit, on the border line between Russian territory
5 and Ningkuta. These three monoliths shall be newly
6 established, and the seven wooden border marks, E, I,
7 K, L, N, O, and P, which have hitherto existed, shall
8 all be replaced by monoliths.

9 "3. It is now agreed that the Russian posts
10 and civilian habitations..." I omit that paragraph 3.

11 Paragraph 7:

12 "7. There have been set up eleven new
13 border mark monoliths up to the present, but each
14 monolith is very widely separated from the other. At
15 the intermediate places, where border lines in between
16 are so meandering and studded with groves, or where
17 they are indistinct, they shall be made distinct,
18 section by section, by setting up special marks, or
19 by digging ditches, so as to supplement the insuffi-
20 ciency of border marks. The border marks thus set up
21 shall have the numbers 1, 2, 3, 4, etc., inscribed
22 in them, and shall be described, one by one, in the
23 sectional maps to make them more detailed than the
24 maps existing hithertofores."

25 THE PRESIDENT: Without maps these things

1 mean nothing at all to us.

2 MR. FURNESS: I am reading them because I
3 think these establish a very vague border line, as is
4 evidenced from the reading.

5 THE PRESIDENT: We still need maps to show
6 where the fighting was.

7 MR. FURNESS: I am going to endeavor to
8 supply such maps.

9 I now offer in evidence defense document
10 No. 1510, the protocol of border lines between China
11 and Russia on the border east of Hunchun, signed
12 June 3, 1886.

13 THE PRESIDENT: A colleague suggests that
14 exhibit 753 may contain one of the maps relevant to
15 what you have just read.
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1 THE PRESIDENT: General Vasiliev.

2 GENERAL VASILIEV: That is just as you have
3 told just now, your Honor. The map in which the Tri-
4 bunal is interested is attached to exhibit 753.

5 I object to the introduction of document 1510
6 on the following grounds: This protocol concluded
7 between Russia and China in 1886 for the purpose of
8 definition of a sector of the border in the Lake Khasan
9 area and known as the Hunchun Agreement has already
10 been introduced by the prosecution and was marked
11 exhibit No. 753, excerpt, and exhibit 2175, full text.

12 The full text of the Hunchun Agreement, the
13 photostat copy of it, was introduced by us as original
14 in Russian because this agreement was concluded in
15 Russian and Japanese languages.

16 THE RUSSIAN MONITOR: Correction: And Chinese
17 languages.

18 GENERAL VASILIEV: Now, the defense introduces
19 the full translation of this text into English and
20 Japanese, but there is no need of a separate tendering
21 of these texts in evidence. The defense can simply
22 use the translation for their own needs.

23 Had we known the defense would have any need
24 for the full English and Japanese translations of this
25 document we certainly would have prepared them ourselves.

1 MR. FURNESS: If the Court please, the defense
2 felt that the Tribunal might also be interested in the
3 English text. Except for a small, very short excerpt
4 appearing in exhibit 753, neither the Tribunal nor the
5 defense have such text.

6 This text which I am now introducing is based
7 on the Chinese text and not on the Russian. Both, I
8 submit, are of equal dignity before this Tribunal.

9 My plan is, if it is admitted, to read all
10 of Article 1 except the first paragraph.

11 THE PRESIDENT: You say, I understand, that
12 we have part only of this document in English?

13 MR. FURNESS: I do so.

14 THE PRESIDENT: Well, you have the right to
15 place before us the balance of the English translation
16 so far as relevant and material.

17 MR. FURNESS: There is, if your Honor please,
18 a difference between the Chinese text and the Russian
19 text which is essential, and, therefore, I would like
20 to read the paragraphs which I have mentioned to point
21 out -- so that that difference may be evident.

22 GENERAL VASILIEV: May I say a few words, sir?

23 First, the certificate attached to the defense
24 document shows that the source of this document is not
25 Chinese, but Japanese. Therefore, the translation was

1 made not directly from Chinese into English, but from
2 Chinese into Japanese, then from Japanese into English.
3 That makes this translation inadequate.

4 When we introduced this document the Tribunal
5 was satisfied with having an excerpt from the document
6 and didn't say otherwise. That is why we didn't pro-
7 cess the whole of the document, that is exhibit 753.

8 But besides this the Tribunal have the full
9 text, exhibit 2175, full copy in the Russian text,
10 because the treaty was concluded in Russian.

11 If there is such a need we will make a full
12 translation into English and into Japanese. But there
13 is no need to accept a new evidence from the defense
14 because there is no such new evidence.

15 THE PRESIDENT: Well, I can only repeat that
16 if we have part of it in English, we should have the
17 balance, if the defense want it in and it is relevant
18 and material.

19 If there is any dispute later as to the accuracy
20 of the English translation, that can be settled in the
21 usual way by language experts.

22 Major Furness, we are unable to find in the
23 defense document 1510 the part that corresponds to that
24 read from exhibit 753. If we admit it, it will be
25 because it is the balance of 753 that was read. You

1 say we have part in English; this is the balance. Show
2 us in this the part we have already.

3 MR. FURNESS: The balance I think begins--

4 THE PRESIDENT: Observe the red light.

5 MR. FURNESS: I do wish to stress again, if
6 your Honor please, that this is based on the Chinese
7 text of the agreement which is not a translation of
8 the Russian. It is equally an original.

9 If your Honor please, I can point out the
10 part of this document which corresponds to the excerpt
11 in exhibit 753.

12 THE PRESIDENT: Page and line of this document.

13 MR. FURNESS: The last line, the words "Proceed-
14 ing over the hill northwestwards" continuing on through
15 the words "where the border mark No. 2 is established."
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1 THE PRESIDENT: Point out the corresponding
2 words in exhibit 753, please.

3 MR. BURNES: The corresponding words --
4 shall I read the text from 1510 while the Tribunal
5 follows the excerpt in the third paragraph of ex-
6 hibit 753?

7 THE PRESIDENT: General Vasiliev.

8 GENERAL VASILIEV: May I say a few words?
9 If the defense wishes to conform our text with
10 their own translation let them introduce the Chinese
11 text, because there was no Japanese text of this
12 document, no Japanese original text of this document.

13 We introduce the photostatic copy of the
14 document containing all signatures and seals as they
15 were done in 1886 -- as they were fixed in 1886 --
16 and we are ready to take upon ourselves obligation
17 to translate this text into English and Japanese and
18 distribute the translation. The defense will then
19 be able to judge the correctness of the translation
20 in comparison with the original. The differences
21 between our translation into English and their trans-
22 lation into English are due to the fact that we
23 translated this document directly from Russian into
24 English and they translated it via the Japanese
25 language, and that is why there are bound to be some

1 differences, but they are to blame for the differences,
2 not we.

3 THE PRESIDENT: Well, if those differences
4 appear you will be able to put your evidence before
5 us in rebuttal, if not earlier, but certainly in
6 rebuttal.

7 MR. FURNESS: Shall I proceed to read this,
8 your Honor?

9 THE PRESIDENT: Major Furness, have you the
10 Chinese original?

11 MR. FURNESS: I have not the original, but
12 I believe I can produce a copy of the original in
13 Chinese; in other words, the Chinese words.

14 THE PRESIDENT: If any difference arises, of
15 course there will have to be a thorough examination
16 of the originals, but as far as I am aware no dif-
17 ference has yet arisen. General Vasiliev assumes
18 that a difference must arise. He may be right,
19 but at present none has arisen. I think we ought
20 to take the hurdle as we reach it, but we do ask the
21 defense to make available the Chinese version to
22 the prosecution.

23 Have you compared the Russian and the
24 Chinese descriptions?
25

MR. FURNESS: Yes, your Honor, they have

been compared.

1 THE PRESIDENT: With what result, according
2 to you?

3 MR. FURNESS: There are differences, of
4 course, in names. I note that "Ikangtzu" in this
5 version is, I think, the same as "gana." Further-
6 more, in this text --

7 THE INTERPRETER: Just a moment, Mr.
8 Furness, please.

9 MR. FURNESS: Look at exhibit 753, the
10 excerpt, defense document 1510. It says: "Pro-
11 ceeding over the hill northwestwards from the border-
12 mark T up to the north of a sandhill via the west
13 of Lake Khasan."
14

15 THE PRESIDENT: Are you challenging exhibit
16 753?

17 MR. FURNESS: I must say that the fact that
18 the Chinese text refers to "a hill" and says, "via
19 the west of Lake Khasan," and the Russian text says,
20 "running to the northwest cover following the line of
21 mountains, west side of Lake Khasan," is a difference
22 of importance.

23 THE PRESIDENT: Then you are challenging
24 exhibit 753. Well, the only way to solve this is
25 to get the originals, the Chinese and the Russian,

1 if they are available, and on those and other evi-
2 dence we shall have to make a choice or a decision.

3 MR. FURNESS: I can readily produce a
4 copy of the Chinese text, Chinese treaty in the
5 Chinese language, and will do so.

6 GENERAL VASILIEV: I understand it is in
7 the following way: that the question of accepting
8 this document is delayed until the defense will sub-
9 mit the Chinese version of the text; is that so?

10 THE PRESIDENT: He says this is a correct
11 English translation of the Chinese version. We
12 should really have the Chinese version in evidence
13 before any translation is tendered.

14 GENERAL VASILIEV: Pardon me, your Honor,
15 but in the certificate to the defense document it is
16 said that the translation was done from the Japanese
17 into English, not from the Chinese. Probably they
18 have no Chinese text at their disposal.

19 THE PRESIDENT: We realize that, General
20 Vasiliev, but if they are going to rely on the
21 Chinese text they must tender that first.

22 GENERAL VASILIEV: That is quite true, your
23 Honor.

24 MR. FURNESS: I assume, if your Honor please,
25 that I will not have to tender a great many copies

1 in Chinese. I can now tender a copy of the Chinese
2 text which appears in pages 78 and 79, collection of
3 border treaties between Manchukuo and the Union of
4 Soviet Socialist Republics, compiled in July, 1943,
5 by the Treaty Bureaus of the Foreign Office, Tokyo,
6 page 78. At the bottom of the page appears the
7 Chinese text. At the top of the page appears the
8 translation into Japanese.

9 THE PRESIDENT: Well, the Japanese who made
10 that translation must have had the Chinese copy to
11 do it from. Where is that, that is that Chinese
12 document?

13 MR. FURNESS: I think it must be in China,
14 your Honor.

15 THE PRESIDENT: Well, it should be pro-
16 curable, if it is. This is a matter of vital im-
17 portance. The question whether there was an
18 aggressive war turns on this.

19 MR. FURNESS: As I have said, your Honor,
20 a copy of the Chinese version is in the Foreign
21 Office in Chinese and appears in this book.

22 THE PRESIDENT: Well, this is an agreement
23 between Russia and China.

24 MR. FURNESS: I would like to point out
25 that the Tribunal has already accepted a great many

1 documents in English which are based on documents
2 originally in Japanese and Chinese and in many other
3 languages.

4 THE PRESIDENT: Because there was no
5 objection covering it. Here the objection is raised,
6 and we have to deal with it.

7 MR. FURNESS: I believe that we objected
8 to the receipt of copies in those instances, and the
9 Court accepted them.

10 THE PRESIDENT: We would here if the
11 original were not available.

12 MR. FURNESS: The Charter provides that
13 copies will be accepted if not readily available,
14 and I submit that this document in Chinese is not
15 readily available, and that this has the authenticity
16 of a copy.

17 THE PRESIDENT: Well, it depends upon the
18 importance of the document and on the issue, but if
19 this document is readily available somewhere in
20 China we ought to have it. If it is not, you can
21 find out almost immediately. This Court is asked to
22 write history in its judgment, and it wants first-
23 class materials if they are available. Our objective
24 is complete accuracy, if we can achieve it.
25

MR. FURNESS: I submit, if your Honor please,

1 that I can't ask China to surrender her archives
2 to us for production here.

3 THE PRESIDENT: China is represented on
4 this Tribunal. If you apply in Chambers for an
5 order for this document, directed to the Chinese
6 Government, you will get that order. Or shall I
7 say "request"? If the request is not complied
8 with, then you will be able to use copies.

9 MR. FURNESS: Your Honor, I now make that
10 request. I know it can't be complied with this
11 minute, but I make it so as to avoid delay.

12 THE PRESIDENT: I could say the request
13 was granted now. We will direct that the Chinese
14 Government be communicated with by telegram through
15 the Supreme Commander.

16 MR. FURNESS: The Chinese prosecutor,
17 of course, might agree that this is an accurate
18 copy, and I will talk with him tonight so that we
19 may save that trouble.

20 Now, if your Honor please, I would like --
21 I understand that we will proceed in that way.
22 Temporarily, I will withdraw the tender.

23 We have had witnesses here all day and
24 would like now to produce them for testimony.

25 We call as our next witness General TANAKA,

1 who has already testified on several occasions as
2 a witness for the prosecution.

3 ---

4 R I U K I C H I T A N A K A, recalled as a witness
5 on behalf of the defense, testified through
6 Japanese interpreters as follows:

7 THE PRESIDENT: You are still on your former
8 oath, Witness.

9 Mr. Freeman.

10 MR. FREEMAN: If the Tribunal please, since
11 the accused SATO intends to attack the credibility
12 of this witness at a later date, we do not join in
13 his being called as a witness.

14 MR. FURNESS: Counsel for MUTO and HASHIMOTO
15 also do not join in calling this witness.

16 THE PRESIDENT: Does MINAMI concur?

17 MR. HOWARD: General MINAMI concurs in the
18 calling of this witness.

19 DIRECT EXAMINATION

20 BY MR. FURNESS:

21 Q I request that the witness be shown defense
22 document No. 1585.

23 General TANAKA, is that your affidavit?

24 A Yes.

25 Q You have signed and sworn to it?

1 A Yes.

2 Q Are the facts stated therein true and
3 correct?

4 A True and correct.

5 MR. FURNESS: I offer in evidence defense
6 document No. 1585.

7 THE PRESIDENT: General Vasiliev.

8 GENERAL VASILIEV: I object to one sentence
9 in this affidavit. In the affidavit it is said:
10 I didn't witness the first clash, although in the
11 order of the Commander of my Division it was said,
12 et cetera.

13 If this order has any importance it must
14 be tendered.

15 THE PRESIDENT: Yes, if the defense are
16 **relying** on the contents of the order they should
17 produce it or account for its absence.
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1 MR. FURNESS: If the Court please, if that
2 is a written order, it is, I understand, in Korean
3 territory now in Russian hands.

4 THE PRESIDENT: Russia is represented on
5 this Court. Make the usual application.

6 MR. FURNESS: Very well, sir. After I have
7 read the affidavit, I would like to ask the witness
8 questions regarding the whereabouts of the order.
9 I will not, in those questions, make any statement
10 regarding the contents as they appear in this affi-
11 davit.

12 THE PRESIDENT: The objection is upheld and
13 the passage is deleted.

14 MR. FURNESS: With that in mind, I shall
15 read -- no.

16 THE PRESIDENT: Admitted on the usual terms,
17 subject to the deletion of those passages objected
18 to.

19 CLERK OF THE COURT: Defense document 1585
20 will receive exhibit No. 2628.

21 (Whereupon, the document above re-
22 ferred to was marked defense exhibit No.
23 2628 and received in evidence.)

24 MR. FURNESS: With that in mind, I shall
25 read the exhibit:

TANAKA

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1 "I, TANAKA, Ryukichi, after having been duly
2 sworn according to the Japanese formula make the
3 following statement freely and voluntarily of my own
4 free will.

5 "At the time of the Chang-ku-feng border
6 Incident I was commanding officer of the 25th Mountain
7 Artillery Regiment, 19th Division, which was **part of**
8 the Korean Army. The clash started because Soviet
9 troops occupied the foot of a hill called Chiang-chun-
10 feng hill both in Manchoukuo even according to the
11 Hunchun Border Agreement. It was the Japanese conten-
12 tion that the border ran along the western shore of
13 Lake Hassan. The western side of Chang-ku-feng is
14 in Manchukuo even under the Soviet contention that
15 the border ran along the height of land. I arrived
16 at the scene of the incident about the 15th of July,
17 about two weeks prior to July 29. I saw the Soviet
18 troops entrenched around the top of Chang-ku-feng Hill.
19 The trenches were about 20 - 30 meters below the sum-
20 mit on the western slope of the hill in Manchukuoan
21 territory even under the Russian contention. There
22 were also three rows of barbed wire, the first row
23 just below the trenches and the lowest about 100 meters
24 below the summit on the western slope. I saw about
25 two companies of Soviet troops -- about 200 men. I do

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1 not know whether any serious fighting had taken place
2 prior to my arrival, and no fighting occurred at the
3 time of my arrival. I was on the western bank of the
4 River Tumen and could see the Manchoukuoan Territory
5 between the river and the summit of Chiang-ku-feng.
6 I went reconnoitering along the river and could see
7 the Soviet troops very clearly with my binoculars
8 which were 12 power, since the Soviet troops were
9 only two kilometers away. Since we were informed that
10 the Japanese Government wanted to settle the matter
11 peacefully, I was ordered back with my troops to the
12 town of Ranan in Korea where the Division was located
13 and I returned to that town. I had about 400 soldiers
14 under my command. I was ordered to return again to
15 the spot on the 30th and arrived there at five o'clock
16 in the morning on the 31st. When I arrived Japanese
17 troops were attacking Chiang-chun-feng Hill which, as
18 I have said before, is in Manchoukuoan territory even
19 under the Russian contention."
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1 MR. FURNESS: Omitting the next two sen-
2 tences:

3 "After I arrived the Japanese troops occu-
4 pied areas between Chang-ke-feng and Chiang-chun-
5 feng, going only as far as the border as contended
6 by the Soviet Union. Reinforcements were brought
7 up from both sides and Japanese troops maintained
8 their position until noon of the 11th of August.
9 Fighting stopped for good on the 11th as a result
10 of the truce agreement which had been concluded in
11 Moscow by Mr. SHIGEMITSU.

12 "The Kwantung Army was not used in the
13 fighting at all although parts of it were concen-
14 trated on the border after hostilities commenced.
15 Some reinforcements amounting to about 2,000 men
16 were sent by the Kwantung Army to the Korean Army
17 after hostilities commenced but they were under the
18 command of the Korean Army. No airplanes were used
19 by the Japanese troops and long-range cannon were
20 used by them only during the morning of the 11th
21 of August. Soviet troops used long-range cannon
22 from the 29th of July on and used airplanes and long-
23 range cannon against targets well within the inter-
24 ior of Japanese territory in Korea. Even places
25 120 kilometers within Korean territory were bom-

1 barded by airplanes. The long-range cannon and
2 airplanes did not confine themselves to military
3 targets. I know from talks I had with Lieutenant
4 General Suyetaka, Division Commander, that there
5 were no plans of any kind made by the Japanese to
6 provoke this incident to test Soviet strength and
7 that the commanding officers of the Japanese Army
8 were very anxious to check this incident and to
9 prevent its developing into a general war. The
10 Division Commander strictly ordered the Japanese
11 detachments not to cross the border as contended
12 by the Soviet Union and I gave this order to the
13 soldiers in my regiment. This area is near the
14 mouth of the River Tumen which is far away from
15 any tactical point."

16 THE PRESIDENT: General Vasiliev.

17 GENERAL VASILIEV: Here a sentence is
18 quoted in which the order of the division commander
19 is mentioned. The order is not tendered. There-
20 fore, on these grounds, I ask to delete this sent-
21 ence also.

22 THE PRESIDENT: That may not have been a
23 written order, I don't know. Ordinarily, a division
24 commander would give his orders in writing.

25 MR. FURNESS: I will ask the witness,

TANAKA

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1 when I get through, your Honor, whether it is in
2 writing.

3 THE PRESIDENT: If it was, the rules must
4 be complied with. Proceed to read, Mr. Furness.

5 MR. FURNESS: I do want to say that I did
6 not intentionally violate the Court's direction and
7 thought the prosecution's objection applied only to
8 the passage they pointed out. (Reading)

9 "There is no railway to destroy and it is
10 far from Vladivostok port. It is rough country
11 where the clash took place - the border is not
12 clearly marked by monuments."

13 BY MR. FURNESS (Continued):

14 Q General, without stating the contents of
15 the order, I want to ask you whether or not the
16 order, to which you refer as having been received
17 from the commanding general of your division with
18 respect to where the clash took place, was a written
19 order.

20 A Telephonic order.

21 Q Does the same apply to the order not to
22 cross the border?

23 A Yes, telephonic order.

24 MR. FURNESS: May I then read the sentence
25 which was omitted?

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1 THE PRESIDENT: You may.

2 MR. FURNESS: "I was not present at the" --

3 THE PRESIDENT: Oh, no, he did not refer
4 to that.

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1 MR. FURNESS: I think he did, your Honor.
2 I said, "When the clash first took place." I will
3 make certain, though.

4 THE PRESIDENT: That does not refer to
5 crossing any border; the second one does.

6 MR. FURNESS: I asked two questions, and
7 he answered them both "Yes". I think the first
8 question applied specifically to the place where
9 the clash took place.

10 THE PRESIDENT: Read the omitted parts,
11 both of them.

12 MR. FURNESS: "I was not present at the
13 time the first clash took place, but in the order
14 of the Commanding General to my Division he stated
15 that it took place on the afternoon of the 29th and
16 that Russian troops had attacked a detachment of
17 Japanese troops under Lieutenant Colonel Takayama
18 which were at the foot of Chiang-chun-feng hill on
19 its western side which, as I have said, is entirely
20 within Manchoukuoan territory even under the Russian
21 contention. The order of the Division Commander
22 stated that Soviet troops had repulsed them."

23 The second sentence was read, your Honor,
24 and I assume, therefore, that it has not been
25 stricken out.

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1 I now ask that the witness be shown the
2 original of exhibit 2175, which is the map attached
3 to exhibit 753. Copies of this map are attached to
4 exhibit 753, which the Court already has.

5 (Whereupon, a document was handed
6 to the witness.)

7 THE PRESIDENT: We will recess now for
8 fifteen minutes.

9 (Whereupon, at 1445, a recess was
10 taken until 1500, after which the proceed-
11 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Major Furness.

4 MR. FURNESS: If the Tribunal please, since
5 the map attached to exhibit 2175 is in two sections,
6 I think I will ask the witness be shown this photo-
7 static copy of the map which is attached to the copy
8 of exhibit 753, which I have.

9 (Whereupon, a document was handed to
10 the witness.)

11 BY MR. FURNESS (Continued):

12 Q Of what is that a map?

13 A This is a map of the vicinity of Chang-ku-
14 feng.

15 Q I wish you to mark on that map the hill
16 Chiang-chun-feng about which you have testified in
17 your affidavit.

18 A Yes.

19 Q Will you also mark on that map approximately
20 the place where you saw the Soviet troops --

21 THE PRESIDENT: You had better use a colored
22 pencil and mark the spot A or B, as well as surround
23 it. These markings must be recorded in the trans-
24 cript.

25 Q Please mark the hill Chiang-chun-feng with the
letters "CC."

1 A (The witness indicated on the map.)

2 Q Do you recognize Chang-ku-feng Hill?

3 THE PRESIDENT: Let the Judges see that,
4 so that they may mark their copies if they feel so
5 inclined.

6 MR. FURNESS: If your Honor please, I
7 plan to have him make other marks on the map, so that
8 we can do it all at once.

9 THE PRESIDENT: Let him make the others.

10 Q Will you mark Chang-ku-feng with the letters
11 "CK"? Perhaps it would be best to mark it with a
12 triangle.

13 THE PRESIDENT: What is the first place?
14 Mark that with a square and then with a triangle,
15 and you could have an oblong for the next, and some-
16 thing else after that.

17 Q Now, could you indicate on the map where
18 you saw the barbed wire and trenches, as you testi-
19 fied, on the western slope?

20 A I have finished.

21 THE PRESIDENT: Pass it up to the bench.

22 (Whereupon, the map was handed to the
23 Tribunal.)

24 Yes, Major Furness.

25 MR. FURNESS: I tender that photostatic copy

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1 in evidence and suggest that it be marked exhibit
2 753-A.

3 THE PRESIDENT: Admitted on the usual
4 terms.

5 CLERK OF THE COURT: The copy of the map
6 from the original exhibit 753 will receive exhibit
7 No. 753-A.

8 (Thereupon, the document above referred
9 to was marked defense exhibit 753-A and received
10 in evidence.)

11 MR. FURNESS: I now tender for identifica-
12 tion only a paper which is headed "Defense Document
13 1584, Exhibit B" -- a photostatic copy of that paper.

14 THE PRESIDENT: Of what is it a photostatic
15 copy?

16 MR. FURNESS: I am not tendering it in evi-
17 dence; I am just asking it be marked for identifica-
18 tion, and then I will ask it be shown the witness.

19 THE PRESIDENT: The witness will say what
20 it is. I take it?

21 MR. FURNESS: He will say what certain marks
22 on it represent in military cartography. May it be
23 so marked for identification?

24 THE PRESIDENT: That is the Clerk of the
25 Court going to call it? A photostatic copy of what?

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1 MR. FURNESS: He can call it a photostatic
2 copy of a sketched map.

3 CLERK OF THE COURT: Defense document 1584
4 will receive exhibit No. 2629 for identification
5 only.

6 (Whereupon, the document above refer-
7 red to was marked defense exhibit 2629 for
8 identification only.)

9 THE PRESIDENT: Will you have many witnesses
10 marking maps in this way, that is to say, the same
11 map or copies thereof?

12 MR. FURNESS: The original of that will be
13 introduced into evidence later but not under the
14 testimony of this witness.

15 THE PRESIDENT: Each witness should mark a
16 fresh copy to avoid confusion and suggestions.

17 MR. FURNESS: I am not going to ask him to
18 mark even this one. I am merely going to ask him
19 what certain signs on it mean, as a military man.

20 THE PRESIDENT: The Judges have no copies.

21 MR. FURNESS: The copies will be served
22 when the map, which is to be an attachment to another
23 affidavit, is tendered in evidence. I wish to state
24 again I am not tendering it into evidence. I am
25

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1 merely asking that it be marked for identification
2 and shown the witness, and that he say what certain
3 signs mean. If the Tribunal prefers, I can call
4 the witness later to do that if it is necessary.

5 THE PRESIDENT: Yes, you had better call
6 him later for that purpose.

7 General Vasiliev.

8 GENERAL VASILIEV: I wanted to ask your
9 Honor to rule that the map should not be used now.
10 It is a sketch and it is not known by whom it is
11 made.

12 THE PRESIDENT: Well, Major Furness antici-
13 pated you. It is not being used yet.

14 MR. FURNESS: The prosecution may cross-
15 examine.

16 THE PRESIDENT: General Vasiliev.

17 CROSS-EXAMINATION

18 BY GENERAL VASILIEV:

19 Q Witness, in your affidavit you state that
20 the clash at Khasan Lake started because the Soviet
21 forces occupied the territory which was the object
22 of the conflict. Did you yourself witness this event?
23 Did you see personally the Soviet troops capture
24 this territory?
25

A I didn't see how it was captured, but I saw

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the conditions after the capture.

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1 Q Then your contention that the Russians
2 allegedly occupied this territory corresponds to the
3 official Japanese interpretation of this event and
4 you, yourself, didn't witness the event?

5 A The ridge of Changkufeng Hill is very
6 long. I personally saw that that ridge was occupied
7 by the Soviet troops.

8 Q Thus I understand that you personally
9 didn't witness the capture of this hill, is that so?

10 A I did not witness the actual action of
11 capture, but as the place had been captured by the
12 Soviet troops, I conducted a very close reconnais-
13 sance into the details of the situation at a distance
14 of two kilometers and saw Soviet troops there.

15 THE MONITOR: From three or four points.

16 A (Continuing) I also saw at a distance
17 of about 20 to 30 meters below the summit entrench-
18 ments, and with the binoculars of 12 power, I also
19 saw barb wire entanglements below the trenches.

20 Q Witness, I would like to lighten your
21 task a bit to make it easier. I put to you simple
22 questions and I would like to get simple answers
23 instead of lengthy statements.

24 A I understand, I will reply as briefly as
25 possible.

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1 Q You arrived at Changkufeng Hill at the
2 moment when the events had already started to a
3 certain extent and developed?

4 A Yes.

5 Q Thus your making or putting the circles
6 on the map just confirmed the definite study --
7 definite positions of the battling parties, didn't
8 you?

9 A I have only indicated on the map the
10 results of my observations.

11 Q And you, as a military man, understand
12 certainly that during the course of the fighting some
13 definite line could have been violated by any of these
14 parties? Even if this line was violated by the
15 Soviet troops that could have been explained by this
16 fact -- could have been explained in this way?

17 A Yes, after hostilities or fighting begins.
18 I merely said that there were Soviet troops on the
19 summit and I had seen trenches before the outbreak
20 of the fighting.

21 Q Were you, as a commanding officer of an
22 artillery regiment, together with your unit and due
23 to the nature of the unit, which was an artillery
24 unit, were you directly in the first line of Japanese
25 troops or at some distance from there?

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1 A I was then on the west side of the Tumen
2 River and the front line of Japanese troops were some-
3 what parallel to the front line of the Soviet troops.

4 THE MONITOR: Seen from the Soviet side.

5 Q Thus you were at some distance from the
6 actual place of the conflict, weren't you?

7 THE PRESIDENT: That assumes it was an
8 infantry battle.

9 A (Continuing) At the time when the first
10 clash occurred I was about 200 meters in the rear
11 from Changkufeng Hill.

12 THE PRESIDENT: That assumes that it was an
13 infantry battle.

14 MR. FURNESS: If the Court please.

15 THE PRESIDENT: Major Furness.

16 MR. FURNESS: I think the witness' testimony
17 shows that he was on the bank of the Tumen River
18 about the 15th of July. That is when he saw the
19 trenches and barb wire.

20 GENERAL VASILEV: I cant understand whom I
21 interrogate -- Mr. Furness is giving evidence instead
22 of the witness.

23 Q Witness, you just now considered the map
24 attached to the Hunchun Agreement. Will you tell me,
25 according to this map, the boundary -- does the

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1 boundary pass the western bank, along the western
2 bank of Lake Khasan, or further to the west along
3 the crest of the hills?

4 A It passes through the south side of
5 Chengkufeng Hill. The north side is in Manchurian
6 territory.

7 THE MONITOR: Northern half.

8 MR. FURNESS: I suggest, if your Honor please,
9 the map speaks for itself.

10 Q May I ask you to look at the map and
11 tell the Tribunal whether the boundary line passes
12 along the bank, or further to the west along the
13 crest of the hills?

14 A Chengkufeng Hill is a very flat hill.
15 The summit itself stretches around about 200 meters.
16 If you see this map, the southern half of the summit
17 is within -- if you observe this map the southern
18 half of this summit belongs to Soviet territory and
19 the northern part, northern half is Manchurian
20 territory.

21 Q Witness, I asked you whether the boundary
22 line passes along the bank itself, or along the
23 crest of the mountain? It is all very clear on the
24 map.
25

A On the map it does not pass by the side

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1 of Lake Khasan, but it passes through the southern
2 half of Changkufeng Hill.

3 THE PRESIDENT: Hitherto, we have been
4 hearing east and west and not north and south. The
5 witness may be confusing the two.

6 Q So, I understood you correctly that the
7 boundary line passes, not along the western bank,
8 but to the west of the bank along the crest of the
9 mountain, to the left part of the map, is that
10 correct? Left hand part?

11 A To be absolutely correct it passes
12 through the center of the summit of the hill.

13 THE PRESIDENT: Well, we would like to know
14 whether the map the witness marked shows the points
15 of the compass.
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1 MR. FURNESS: If the Court please.

2 THE PRESIDENT: Major Furness.

3 MR. FURNESS: I believe that the prosecutor
4 misquoted the witness. He said the boundary is shown
5 on this map. I understand that that is all the witness
6 is testifying to.

7 THE PRESIDENT: Well, the Court would like
8 to have that matter cleared up. Does the map he
9 marked show the points of the compass? If it does,
10 will you study the map in that regard and tell us what
11 his answer is.

12 GENERAL VASILIEV: The map is drawn up accord-
13 ing to the usual rule. At the top of it is north, at
14 the bottom south, to the left west, and to the right
15 east, as it is seen from the exhibit.

16 THE WITNESS: Let me say a few words. I did
17 not see this map before I appeared in this Tribunal
18 and I have thought that the western half was Manchurian
19 territory and the eastern half Soviet territory. Now,
20 after seeing this map I see that the line runs from
21 the summit of Changkufeng Hill from southeast to north-
22 west, and I just said north and south in order to
23 enable those who had perused this map generally to
24 understand north and south. If I am to be more
25 exact I should say northwest and southeast. That is all.

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1 GENERAL VASILIEV: Let us check it.

2 Q So the boundary line passes west of the bank
3 of the lake along the crest of the mountains, isn't
4 that so? Isn't that so as it is shown on the map?

5 MR. FURNESS: If the Court please.

6 THE PRESIDENT: Major Furness

7 MR. FURNESS: It seems to me a complete waste
8 of time for this witness to testify as to where a
9 particular line appears on a piece of paper which is
10 before the Tribunal.

11 THE PRESIDENT: If all the writing on the map
12 were in English we would have no difficulty in agree-
13 ing with you, Major. But it isn't. Some of it is in
14 Japanese. It was because we couldn't find any points
15 of the compass indicated on the map that we asked the
16 witness that question.

17 MR. FURNESS: I think, if your Honor please,
18 it is in Chinese, not Japanese.

19 THE PRESIDENT: That may be too. Apparently
20 he can read it.

21 GENERAL VASILIEV: May I say a few words, your
22 Honor?

23 THE PRESIDENT: Yes, General.

24 GENERAL VASILIEV: The map clearly shows that
25 the north is at the top of it, the south is the bottom,

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1 to the left is west, and to the right is east.

2 THE PRESIDENT: Well, we must have our copies
3 in English. I am afraid copies in Chinese, Russian
4 and Japanese will be of no assistance to us.

5 GENERAL VASILIEV: The map attached to the
6 court exhibit which was tendered some time ago has the
7 necessary marks indicating where the north is and where
8 the south is, and has all the inscription or all the
9 legends in English. I don't know how it can happen
10 that you have no such map at your disposal now. I have
11 several copies of that map now.

12 THE PRESIDENT: My colleagues, after careful
13 consideration and study of the map, do not agree with
14 you, General.

15 GENERAL VASILIEV: There is a slight misunder-
16 standing here. Exhibit 753 has inscriptions in three
17 languages. I have this exhibit now before me.

18 THE PRESIDENT: There are some words in English,
19 but the points of the compass are not indicated.

20 GENERAL VASILIEV: All the names are translated
21 into English, and other inscriptions. If I might be
22 allowed to say, I would like to add that we separately
23 introduced a photostat copy in Russian, but that was
24 quite a separate copy.

25 THE PRESIDENT: Well, this case is very heavy

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1 going when we have to peruse maps. We expect you to
2 give us the clearest maps with the names in English
3 and also the points of the compass in English.

4 GENERAL VASILIEV: May I continue the cross-
5 examination?

6 THE PRESIDENT: Yes.

7 BY GENERAL VASILIEV (Continued):

8 Q I ask the witness to mark with pencil lines
9 the part of the territory between the bank of the
10 lake and the boundary line in confirmation of the fact
11 that precisely this territory was the object of the con-
12 flict. May I ask you to do this, Mr. Witness?

13 A As I have said before, the line does not pass
14 by the west of Lake Khasan but right through the middle
15 of the summit of Changkufeng Hill, and the summit of
16 this hill is flat and stretches a distance of about 500
17 meters, and I should like to say that half of this
18 summit belonged to Soviet territory and the other half
19 to Manchukuo. Half of the area of the summit belonged
20 to Soviet Russia and the other half to Manchukuo.

21 THE PRESIDENT: We will adjourn until half
22 past nine tomorrow morning.

23 (Whereupon, at 1600, an adjournment
24 was taken until Thursday, 22 May 1947, at
25 0930.)